

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Crl.MC.No. 3055 of 2007()

CC.1961/2004 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM

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PETITIONER: ACCUSED

B.JYOTHIR NIVAS,
S/O.BHASKARAN NAIR, AGED 46 YEARS,
MULAMOOTTIL, KERALAPURAM, VELLIMON P.O., KOLLAM.

BY ADV. SRI.SABU S.KALLARAMOOLA

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.3055 of 2007

Dated this the 4th day of October, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 353 I.P.C. Cognizance has been taken. The case has been registered as C.C.No.1961 of 2004. Consequent to non appearance of the petitioner, the case has been transferred to the list of Long Pending Cases. Coercive steps have been initiated against the petitioner by the learned Magistrate to procure his presence. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate. He apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-

